

REMARKS

The present invention is a method for preparation of slaughtered poultry for picking and a system for the preparation of the slaughtered poultry for picking. A system for the preparation of the slaughtered poultry for picking in accordance with an embodiment of the invention includes a scalding department 2, a water vapor source for introducing water vapor into the scalding department, at least one transporting line for transporting bodies of the slaughtered poultry through the scalding department, a flow generation device 17 and/or 19 and a guiding device 18 and/or 20 for guiding the at least one flow of water vapor-air mixture against predetermined regions of at least one of the bodies of the poultry as described in paragraphs [0007]-[0008] of the Substitute Specification which are more difficult to pick than other regions of the poultry bodies with the scalding being performed without the bodies of the slaughtered poultry being immersed in water. This subject matter provides a solution to the deficiencies of the prior art as discussed in paragraphs [0003]-[0004] of the Substitute Specification.

Claims 1-27 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Patent 5,045,021 (Borup). The Examiner reasons as follows with respect with claims 1 and 13:

Borup teaches a method of thermal treatment and an apparatus for carrying out the method. More specifically, the steps of the method include scalding the bodies of pigs by introducing heated water vapor into a heated scalding compartment at a predetermined temperature. Further, at least one flow of a water vapor-air mixture is generated and guided against the carcasses at predetermined regions without the carcasses being submersed in water. See the related discussion column 3, lines 16-30. As seen in Figure 1, water vapor is introduced into a lower region of the scalding compartment. However, Borup does not discuss or teach the method of scalding on poultry carcasses (emphasis added).

In regards to claims 1 and 13, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Borup to be performed on poultry carcasses, in that, both types of carcasses are widely known for being scalded during the processing of turning the carcasses into food, and as a result, are considered to be structurally equivalent.

These grounds of rejection are traversed for the following reasons.

The stated grounds of rejection generally conclude, without the citation of any prior art, that pigs and poultry are widely known for being scalded during the processing of turning the carcasses into food, and as a result, are considered to be structurally equivalent" (emphasis added). No such teaching in the prior art is of record with respect to the alleged structural equivalence of pigs and poultry. Moreover, as recited in each of the independent claims, the claims are limited to the water vapor-air mixture being directed against predetermined regions of at least one of the bodies of the poultry which are more difficult to pick than other regions of the poultry bodies.

On page 7 of the Office Action, the Examiner raises the question, what exactly are these predetermined regions, and do these regions contacted by water vapor-air mixture at the exclusion of other regions?" The Examiner should note that the claims specifically answer the point by stating, as for example, in claim 1, "guiding the at least one flow of water vapor-air mixture against predetermined regions of at least one of the bodies of the poultry which are more difficult to pick than other regions of the poultry bodies." Those predetermined regions are more specifically defined in dependent claims 26 and 27.

The claimed direction against the predetermined region is supported in paragraphs [0007]-[0008] of the Substitute Specification. A person of ordinary skill in the art understands that the flow against predetermined regions of the feathers are those regions which are more difficult to pick. Moreover, those areas are specifically recited in dependent claims 26 and 27 as involving the legs of the poultry. This subject matter is clearly not taught by Borup.

The Examiner's conclusion that both types of carcasses are widely known for being scalding during the processing of turning the carcasses into food" is correct. However, this does not suggest the more specific recitation in the claims of directing the flow against predetermined regions which are more difficult to pick. A teaching of this subject matter is wholly lacking from the prior art and the Examiner's conclusion of the structural equivalence has not been demonstrated in the record to be known in the prior art with respect to the claimed direction of a water vapor-air mixture against predetermined regions which are more difficult to pick. Accordingly, the rejection of claims 1-27 is erroneous as being based upon impermissible hindsight.

Moreover, the Examiner has not even addressed the more limited subject matter of claims 26 and 27 which are structurally specific as to nozzles being attached to at least one horizontal tube which directs water vapor-air mixture against legs of the at least one of the bodies and second nozzles attached to at least one vertical tube which direct water vapor-air mixture against portions of at least one of the bodies below the legs". This

subject matter is clearly not suggested by the Examiner's unfounded conclusion that the processing of poultry and pigs are structurally equivalent.

Claim 19 stands rejected under 35 U.S.C. §103 as being unpatentable over Borup in view of United States Patent 3,657,768 (Snowden). The rejection of claim 19 is erroneous for the reasons set forth above with respect to the deficiencies of Borup which are not overcome by the citation of Snowden.

Moreover, the Examiner's comments regarding Mr. Kjeldsen's Declaration "are general in nature and not directed to any specific claim language" is noted. In the first place, section 4 factually disputes, from Mr. Kjeldsen's perspective, based upon his personal experiences from 1972 to his position of Chief Technologist SEO as set forth in section 1 of his Declaration and further, as indicated by his attached Curriculum Vitae. Moreover, section 5 points out the distinctions between the scalding of poultry to pick feathers and the removal of hair from pigs. The difference is noted in section 5 which states that the processing of poultry to pick feathers and scalding of pigs to remove hair are different processes as understood by a person of ordinary skill in the art would. This conclusion is substantiated by section 6 which clearly states that "scalding of poultry to provide picking of feathers in my opinion is not analogous to the aforementioned processing of pigs to remove hair to provide, as described by Borup, for the purpose of providing a very fine rind quality without the red-coloring of the neck and head regions since poultry skin is thin without almost no fat under the skin to provide insulation of the underlying meat to avoid cooking" which has no

counterpart in the processing of poultry. This conclusion concludes that Borup is non-analogous art, which makes his teachings to a person of ordinary skill in the art, not relevant to a motivation to modify Borup to arrive at the acknowledged difference between the subject matter of claims 1 and 13, the dependent claims including claims 26 and 27, or the remaining dependent claims and Borup.

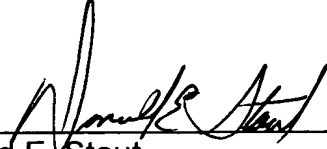
Moreover, section 7 specifically addresses the directing of a water vapor-air mixture against predetermined areas of poultry for the preparation of slaughtered poultry for picking as recited in the claims. Therefore, the comments that Mr. Kjeldsen's comments are "general in nature and not directed to any specific claim language" is incorrect.

In view of the foregoing remarks, it is submitted that rejection of the claims is improper and should be withdrawn. Accordingly, early allowance of claims 1-27 thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (900.43248X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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